113

No. 08-504

Supreme Court, U.S.
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In The

Supreme Court of the United States

DIANE WILLIAMS,

Petitioner,

v.

SUNTRUST BANKS, INC.,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

BRIEF IN OPPOSITION

HOLLAND & KNIGHT LLP
DAVID C. BORUCKE
Counsel of Record
P.O. Box 1288
Tampa, FL 33601-1288
(813) 227-8500

Counsel for Respondent

COCKLE LAW BRIEF PRINTING CO. (800) 225-6964
OR CALL COLLECT (402) 342-2831

QUESTION PRESENTED

The Petitioner's description of the "Questions Presented" is a litany of fact-specific questions that have little or no connection to the opinion of the Eleventh Circuit Court of Appeal, from which the Petitioner seeks review. Focusing on the opinion below, a more accurate statement of the question presented is as follows:

Whether the Eleventh Circuit Court of Appeal's opinion, which affirmed the district court's dismissal of the Petitioner's lawsuit based on the doctrine of *res judicata* and the particular facts of this case, raises any legal issue or dispute that merits this Court's attention.

PARTIES

The petitioner in this matter is Diane Williams ("Ms. Williams" or "Petitioner"). The respondent is SunTrust Banks, Inc. ("SunTrust").

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, Appellee states that SunTrust Banks, Inc. is headquartered in Atlanta, Georgia, and is publicly traded on the New York Stock Exchange under the symbol STI. SunTrust Banks, Inc. has no parent company, subsidiaries (including wholly owned subsidiaries), or affiliates that have issued shares to the public.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
PARTIES	ii
CORPORATE DISCLOSURE STATEMENT	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	iv
STATEMENT OF THE CASE	1
REASONS FOR DENYING THE PETITION	2
CONCLUSION	4

TABLE OF AUTHORITIES

Page

CASES

Williams v. Huntington Bancshares, Inc., 8:04-cv-T-30JSM (M.D. Fla. 2004) 1

Williams v. SunTrust Banks, Inc., Case No. 07-15254 (11th Cir. June 4, 2008) 1

OTHER AUTHORITY

U.S. S. Ct. Rule 10 ..... 2, 3

STATEMENT OF THE CASE

On August 17, 2007, the district court entered an order determining that the lawsuit filed by Diane Williams ("Ms. Williams") against SunTrust Banks, Inc. ("SunTrust"), was barred by the doctrine of *res judicata* and specifically by an adverse adjudication in *Williams v. Huntington Bancshares, Inc.*, 8:04-cv-T-30JSM (M.D. Fla. 2004). (App. 6, 8).[1] Ms. Williams then filed a Motion For Default Final Judgment (App. 20-27), which the district court denied on October 3, 2007 (App. 6-7).

Ms. Williams appealed to the Eleventh Circuit Court of Appeals, which rendered an order affirming the district court's order by an opinion rendered on June 4, 2008. (App. 1-5). *Williams v. SunTrust Banks, Inc.*, Case No. 07-15254 (11th Cir. June 4, 2008). Specifically, the Eleventh Circuit held:

> We conclude from the record that the district court did not err in finding that this action was barred by *res judicata*, because (1) the prior suit was a final judgment on the merits, issued by a court of competent jurisdiction; (2) the underlying facts forming the basis of this action occurred prior to Williams's prior action; and (3) it has not been established that SunTrust was not in privity with Huntington.

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[1] The Appendix attached to the Petition For Writ Of Certiorari shall be referenced herein as "App. ___."

(App. 3-4). Subsequently, on June 23, 2008, the Eleventh Circuit denied Ms. Williams' Motion For Rehearing And For Rehearing En Banc. (App. 10-11). Ms. Williams then filed the instant Petition For Writ Of Certiorari seeking this Court's review.

REASONS FOR DENYING THE PETITION

The Court should deny the Petition because the Eleventh Circuit's opinion, and that of the district court, applies the well-settled law of *res judicata* to the particular facts of this case. Ms. Williams did, indeed, file successive lawsuits – first against Huntington Bank and then against its successor SunTrust. As the Eleventh Circuit indicates, the lawsuits were based upon the same factual predicate and/or arose from the same nucleus of fact.

Ms. Williams' Petition does not identify any legal issue or dispute that merits this Court's attention. The Petition identifies neither a conflict of law nor an important question of federal law that "should be settled by this Court . . . " S. Ct. R. 10 (describing considerations used to determine whether a Petition has established "compelling reasons" for certiorari review). Although the basis for the Petition is elusive, at no point does Ms. Williams contend that the Eleventh Circuit's opinion, or the legal citations on which it is based, depart from the well-established law of *res judicata*.

Instead, the Petition contends, in a conclusory manner, that the two cases "were not the same nor was the claim transaction related." (Petition at 10). No facts are presented to support this contention. Even if contrary facts had been identified, such fact-specific disputes do not provide a compelling basis for seeking this Court's review. S. Ct. R. 10 ("A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings . . . "). The greater part of the Petition is spent invoking "moral obligations," "public policy," and "due process" considerations that are never adequately defined and which have no apparent connection to the Eleventh Circuit's opinion.

The bottom-line is this: Ms. Williams had her day in court and she has sought, through these proceedings, to pursue the same claims that she previously lost on the merits. This is not permissible. And with due respect, the equities in this matter are entirely with SunTrust, which has been forced to engage in these protracted legal proceedings despite the prior adjudication on the merits.

CONCLUSION

For the foregoing reasons, this Court should deny Ms. Williams' Petition For Writ Of Certiorari.

Respectfully submitted,

DAVID C. BORUCKE
Counsel of Record
HOLLAND & KNIGHT LLP
P.O. Box 1288
Tampa, FL 33601-1288
(813) 227-8500
(813) 229-0134 (fax)
david.borucke@hklaw.com

Counsel for Respondent
SunTrust Banks, Inc.